

KARNATAKA VALUE ADDED TAX

APRIL 2012

The Chief Minister of Karnataka presented the State Budget 2012-13 on 21.03.2012 in the Legislative Assembly. The Karnataka Value Added Tax (Amendment) Bill, 2012 has been passed by the Legislative Assembly on 30.03.2012.

The gist of the relevant amendments is detailed in this communique. These amendments would be effective from 01.04.2012.

Tax Rates

The changes in the VAT rates are as follows:

Amendment	Tax on inter-State sales
<p>VAT reduced to 5% from 14% on the following goods:</p> <ul style="list-style-type: none"> ▪ Ready to cook chapathi and parota; ▪ Surgical footwear and components thereof; ▪ Black boards; ▪ Naphtha; ▪ Manufacture and supply of readymade garments, clothing accessories and other made up textile articles including dyeing, printing, stitching embroidery work as works contracts <p style="text-align: right;"><i>(Clause 18 of L.A.Bill No. 3 of 2012)</i></p>	<p>Against "Form C" - would continue at 2%; and when sold without declaration in "Form C", the CST would be at 5%.</p>
<p>VAT increased on Cigarettes and other manufactured tobacco to 17% from the existing rate of 15%</p> <p style="text-align: right;"><i>(Clause 2 of L.A.Bill No. 3 of 2012)</i></p>	<p>Against "Form C" - would continue at 2%; and when sold without declaration in "Form C", the CST would be at 17%.</p>
<p>VAT reduced to 1% from 14% on 'furnace oil sold to foreign going vessels'-</p> <p style="text-align: right;"><i>(Notification No. FD 57 CSL 2012(VI) dated 31.03.2012)</i></p>	<p>Inter State sales – would be liable to CST @ 1%, with or without Form C</p>
<p>VAT reduced to 2% from 5% on the following goods:</p> <p>Un-ginned raw cotton; Dry chillies including cut chillies, spent chillies and chilly seeds.</p> <p style="text-align: right;"><i>(Notification No. FD 57 CSL 2012(III) dated 31.03.2012)</i></p>	<p>Inter State sales – would be liable to CST @ 2%, with or without Form C</p>
<p>VAT reduced to 1% from 2%</p> <ul style="list-style-type: none"> ▪ Jewellery and articles of gold and other noble metals (whether or not studded with precious and semi-precious stones) and precious and semi-precious stones by themselves; ▪ Works contract of manufacturing or processing and supplying of jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones <p style="text-align: right;"><i>(Notification No. FD 57 CSL 2012(V) dated 31.03.2012)</i></p>	<p>Inter State sales – would be liable to CST @ 1%, with or without Form C</p>

Complete exemption from payment of VAT on the following goods:

- All varieties of textiles and fabrics other than those specified in Third Schedule of the Act or notified by the Government.
Hitherto, all varieties of textiles and fabrics (**produced or manufactured in India**) including declared goods but other than those specified elsewhere in Third Schedule or notified by the Government was exempt. *(Clause 16 of L.A.Bill No. 3 of 2012)*
- Braille watches *(Notification No. FD 57 CSL 2012(IV) dated 31.03.2012)*
- Paddy, rice, wheat, pulses, Flour and soji of rice and wheat, Maida of wheat (the exemption already available is proposed to be continued for one more year from April 2012) – *(Notification No. FD 57 CSL 2012(I) dated 31.03.2012)*

Input credits (Section 11)

Works contract: In respect of works contracts, the principal contractor shall be eligible to claim a deduction of 'amounts paid to sub-contractors' or input tax rebate, but not both. *(Clause 3 of L.A.Bill No. 3 of 2012)*

Adjustment to input tax / output tax (Section 30)

Omission of provisions relating to Debit Note / Credit Note: With respect to any price variations and changes to the tax amounts, the law upto 31.03.2012 provided for adjustment of the same through debit notes / credit notes, as the case may be. With effect from 01.04.2012 the said provisions are deleted from the statute implying that such adjustment would not be permissible

Accordingly, any adjustment to the taxes payable / input credits would not be permissible and allowed when such adjustments are through debit / credit notes. However, insofar as it relates to 'sales returns', the existing provisions would continue, subject to the conditions prescribed. *(Clause 5 of L.A.Bill No. 3 of 2012)*

Filing of Revised Returns (Section 35)

It is provided that 'Revised Return' may *prima facie* be filed within the time prescribed for filing the return of the succeeding tax period, viz., subsequent month / quarter, as the case may be. To illustrate, a revised return for April 2012 may be filed on / before 20th June, 2012 being due date for filing return of return for the succeeding tax period, viz., May 2012.

However, where the dealer desires to furnish 'revised return/s' thereafter, the same may be filed within a period of six months from the end of the relevant tax period upon obtaining permission from the jurisdictional departmental authorities.

Hitherto, any dealer was permitted to file a revised return at any time with a period of 6 months from the end of the relevant tax period, without having to obtain any permission. *(Clause 6 of L.A.Bill No. 3 of 2012)*

Tax deduction at source (Section 18A)

TDS on purchase of specified goods omitted: The law provided for deduction of tax at source on purchase of oil seeds; non refined oil; oil cake; scrap of iron and steel and certain other notified goods.

The Honourable Karnataka High Court in the case of Suman Enterprises has held that the above provisions (Section 18A) read the Notification No. KSA.CR.76/208-09 dated 28.07.2008 issued thereunder is violative of Article 19(1)(g) of the Constitution of India. Accordingly, the said notification and the provisions of Section 18A are inoperative.

Taking cognizance of the above, the Commissioner had hitherto withdrawn the said notification. Through this amendment, the State Government has now deleted the said provision from the Statute. *(Clause 4 of L.A.Bill No. 3 of 2012)*

Movement of goods

Furnishing of declaration upon entering and exit from the State (Section 53): With respect to movement of goods, the VAT law provides that a declaration in Form VAT 525 shall be furnished by the owner or person in charge of goods vehicle or a boat upon entering and leaving the Karnataka State limits.

In this regard, the provisions have now been introduced to enable online declarations in Form VAT 525. Accordingly, the Commissioner of Commercial Taxes is empowered to notify the 'class of goods' or 'class of dealers' who shall be required to update the relevant details online on the notified website. However, the 'class of goods' or 'class or dealers' are yet to be notified. *(Clause 8 of L.A.Bill No. 3 of 2012)*

Transit Pass (Section 54): With respect to movement of goods coming from outside the State or imported into the State and bound for any place outside the State, it is provided that a 'transit pass' shall be obtained and furnished by the driver or any other person in charge of the goods vehicle. In this regard, the provisions have been amended to provide that the Government or the Commissioner may notify the 'goods' in respect of which the said transit pass would be required to be obtained. Thus, it implies that 'transit pass' shall be applicable only in respect of notified goods. Hitherto, this provision was applicable to all 'taxable goods'. Further, the Commissioner is now empowered to notify the website in which the necessary information shall be furnished for issue of transit pass. *(Clause 9 of L.A.Bill No. 3 of 2012)*

Other Administrative and Procedural Amendments

Time limits for initiating assessment or re-assessments (Section 40)

The provisions relating to the time limits for initiating the assessment or reassessments have been amended. The details are as follows:

Tax periods	Amendment	Existing
For tax periods upto March 31, 2007		
- Normal time limits	8 years	5 years
- Cases involving fraudulent evasion of taxes	10 years	8 years
For tax periods from April 1, 2007 to March 31, 2012		
- Normal time limits	7 years	5 years
- Cases involving fraudulent evasion of taxes	8 years	8 years
For other tax periods	5 years	4 years

(Clause 7 of L.A.Bill No. 3 of 2012)

Rectification of Mistake (Section 69)

In respect of applications made for rectification of assessment orders, the provisions relating to 'deemed rectification' has been omitted. Hitherto, it was provided that on an application being made, if no order was passed within 60 days from the date of receipt of application, the mistake was deemed to have been rectified.

(Clause 11 of L.A.Bill No. 3 of 2012)

Prosecution of dealers (Section 72)

In respect of any failure to furnish monthly returns for 3 consecutive months or quarterly returns for two consecutive quarters, it is provided that, in addition to recovery of any tax or penalty or interest or other amount thereto, any or both of the following may be initiated:

- Dealer be punished with simple imprisonment which may extended to six months;
- Dealer be charged with a fine not less than Rs. 5,000/- but may extended to Rs. 20,000/-;

Further, where the offence is a continuing one, the dealer may be charged with a daily fine not exceeding Rs. 200 per day during the period of continuance of offence. *(Clause 12 of L.A.Bill No. 3 of 2012)*

Penalty

Amendment	Remarks
Non-maintenance of books of account (Section 74): The penalty for non-maintenance of books of accounts is enhanced: <ul style="list-style-type: none">▪ First offence during any year: From Rs. 5,000/- (Hitherto, Rs. 2,000/-)▪ Second or subsequent offence during the year: Rs. 10,000 (Hitherto, Rs. 5000/-) <i>(Clause 13 of L.A.Bill No. 3 of 2012)</i>	Additionally, the dealer would also be required to pay a penalty not exceeding Rs. 200/- per day so long as the offence continues.
Non production of records or non furnishing of information (Section 75): The penalty for non-production of records or non-furnishing of information is enhanced to Rs. 10,000/- from Rs. 5,000/-. <i>(Clause 14 of L.A.Bill No. 3 of 2012)</i>	Additionally, a penalty of Rs. 200/- per day shall be payable so long as the failure continues.

Karnataka VAT Rules, 2005

The amendments to Karnataka VAT Rules, 2005 are not notified as on date. Accordingly, this communiqué does not cover the amendment to the Rules.

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